

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Wednesday, October 25, 2006 – 9:00 a.m. – Room W135 House Building

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
Sen. Mark B. Madsen  
Sen. Ed Mayne  
Sen. Michael G. Waddoups  
Rep. James R. Gowans  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Members Excused:**

Rep. Kory M. Holdaway

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:20 a.m.

**MOTION:** Rep. Gowans moved to approve the minutes of the October 3, 2006 meeting. The motion passed unanimously. Sen. Madsen and Rep. Moss were absent for the vote.

**2. R994-204-301 Independent Contractor - General Definition (current rule)**

Rep. Ure introduced the issue.

Mr. Matthew Tenney, Attorney, Parr Waddoups (Parr Waddoups Brown Gee & Loveless), described the Hale Centre Theatre as a community theater and a nonprofit organization. Mr. Tenney explained that recently the Department of Workforce Services has determined that all workers at the theater are to be considered employees of the theater rather than independent contractors, and he discussed the implications of this interpretation of the rule. Mr. Tenney distributed "Notice of Employer Appeal of Department Determination."

Mr. Kent Collins, Attorney, Parr Waddoups, said that occasionally when professional actors are hired at the Hale Centre Theatre, they are paid a professional wage.

Ms. Tani Downing, Executive Director, DWS (Department of Workforce Services), said that the Department believes that the state statute and rule are in compliance with federal law. She added that an administrative appeal on this issue is ongoing.

Mr. Bill Starks, Director, Unemployment Insurance, DWS, distributed and commented on "IRS Factors."

Mr. Mike Medley, General Counsel, DWS, responded to questions from the Committee.

Mr. John Fellows, Deputy General Counsel, and Mr. Jim Wilson, Associate General Counsel, OLRGC (Office of Legislative Research and General Counsel), commented on legislative options and responded to questions from the Committee.

**3. Tax Exemption on Pipelines for Certain Irrigation Uses**

Sen. Dmitrich introduced the issue.

Mr. Craig Smith, Attorney, Huntington-Cleveland Irrigation Company, distributed and commented on "Title 59 Revenue and Taxation" and draft correspondence "Private Letter Ruling 06-008, Applicability of Sales Tax Exemptions on the Construction of a Water Pipeline."

Ms. Sherrel D. Ward, Vice-President, Huntington-Cleveland Irrigation Company, described the hardship the tax requirements have placed on those working in the agriculture community.

Mr. Ted Curtis, Huntington-Cleveland Irrigation, responded to questions from the Committee.

Mr. Marc Johnson, Tax Commissioner, State Tax Commission, explained the process of the private letter ruling operation and the current status of the situation being discussed.

Mr. Bryant Howe, Policy Analyst, OLRGC, answered questions from the Committee as potential changes in statutory language were discussed.

#### **4. Electrical Work on Utah Job Sites Performed by Persons Unlicensed in Utah**

Sen. Mayne introduced the issue and commented that a rule may be needed to clarify the process of licensing electricians when employed under a contracted agreement.

Mr. Mike Pennie, Licensed Master Electrician, addressed concerns with hiring workers from out-of-state who are not licensed in Utah.

Mr. F. David Stanley, Associate Director, DOPL (Division of Occupational and Professional Licensing), agreed with the concerns of Mr. Pennie, but explained that workers hired through companies like Rocky Mountain Power are legally exempt from licensure in the state. He expressed support for legislation that would make hiring in these circumstances illegal.

Mr. Wayne Holman, Commerce Manager, DOPL, commented on the issue.

The Committee discussed the potential need for changes in statutory language. No action was taken.

#### **5. Committee Business**

The next meeting was scheduled for November 16, 2006.

#### **6. Adjourn**

**MOTION:** Sen. Waddoups moved to adjourn the meeting. The motion passed unanimously. Sen. Madsen and Rep. Ure were absent for the vote.

Chair Stephenson adjourned the meeting at 12:10 a.m.